

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF OHIO  
EASTERN DIVISION**

**KINSLEY NYCE**

**Plaintiff,**

**v.**

**STEPHEN JONES, et al.,**

**Defendants.**

**Case No. 2:19-cv-13  
Judge Edmund A. Sargus  
Magistrate Judge Jolson**

**REPORT AND RECOMMENDATION**

Despite filing this case well over one year ago, Plaintiff has not served Defendant Janice Lorrh. (*See* Docs. 72, 73). Rule 4(m) of the Federal Rules of Civil Procedure requires the Court to dismiss an action without prejudice if the defendant is not served within 90 days after the complaint is filed unless the plaintiff shows good cause for the failure. Plaintiff has not shown good cause for failing to serve Defendant nor has Defendant otherwise participated in this action. As Defendant Lorrh is the only remaining Defendant in this case, it is **RECOMMENDED** that this action be **DISMISSED without prejudice** for failure to timely effect service of process under Rule 4(m) of Federal Rules of Civil Procedure.

**Procedure on Objections**

If any party objects to this Report and Recommendation, that party may, within fourteen (14) days of the date of this Report, file and serve on all parties written objections to those specific proposed findings or recommendations to which objection is made, together with supporting authority for the objection(s). A Judge of this Court shall make a *de novo* determination of those portions of the Report or specified proposed findings or recommendations to which objection is made. Upon proper objections, a Judge of this Court may accept, reject, or

modify, in whole or in part, the findings or recommendations made herein, may receive further evidence or may recommit this matter to the Magistrate Judge with instructions. 28 U.S.C. § 636(b)(1).

The parties are specifically advised that failure to object to the Report and Recommendation will result in a waiver of the right to have the District Judge review the Report and Recommendation *de novo*, and also operates as a waiver of the right to appeal the decision of the District Court adopting the Report and Recommendation. *See Thomas v. Arn*, 474 U.S. 140 (1985); *United States v. Walters*, 638 F.2d 947 (6th Cir. 1981).

IT IS SO ORDERED.

Date: April 30, 2020

/s/ Kimberly A. Jolson  
KIMBERLY A. JOLSON  
UNITED STATES MAGISTRATE JUDGE